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EXAMINER	
SHEDRICK, CHARLES TERRELL	
ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/623,156	POHUTSKY ET AL.	
	Examiner	Art Unit	
	CHARLES SHEDRICK	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-14 and 16-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6,7-14, and 16-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/12/09 have been fully considered but they are not persuasive.

2. Applicant argues regarding Claims 1-4, 6-14 and 16-31 that Degraeve teaches a number added to a phone number for "selection ... of a number of pages of a single web site". Degraeve's number added to a phone number lacks any relevance to Applicants' claimed retrieval of a location based message. A prior art reference must be considered in its entirety, i.e., as a whole. MPEP §2141.02 (~ W.L. Gore & Assoc. v. Garlock, Inc., 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984)).

3. In response to applicant's argument that *Degraeve's number added to a phone number lacks any relevance to Applicants' claimed retrieval of a location based message11011011*, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

4. Applicant argues that Degraeve, and the Examiner's other cited references, considered as a whole fail to disclose, teach or suggest retrieving a message relating to the obtained location based on requested information associated with the at least one auxiliary digit suffixed to the end of the telephone number before transmission of the telephone number, as recited by claims 1-4, 6-14 and 16-31.

5. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. Applicant explains that the Examiner alleges at page 4 of the Office Action that Lohtia teaches "using a location based service to obtain a location of the subscriber (Col. 2 line 40, Col. 4 Line 32, and Col. 5 line 30)". These passages of Lohtia read: Users can select services such as stock quotations, location information, daily schedule, movie theatre or entertainment preferences, etc." (Col. 2, lines 40- 42)(emphasis added) The information and services available to the subscribers include stock quotations, weather information, personal schedules, user location services, movie theatre preferences, or any other information that the user may require. (Col. 4, lines 30-34) A called party or destination number corresponding to "800 WEATHER" in this example may indicate that the user is requesting weather information, such as forecasts or observations for either a current location or a pre-selected location indicated in the user's service information PROFILE. (Col. 5, lines 27-32). From these passages Lohtia is clear that a user may SELECT location information, just like a stock quotation, but at best information such as weather is provided based on a location in the user's service information PROFILE. Lohtia's user selecting a menu option is NOT an automatically obtained location of a subscriber as claimed. Lohtia fails to teach a location service automatically queried in response to a telephone call to obtain the user's location, as recited by claims 1-4, 6-14 and 16-31.

7. The Examiner respectfully notes that as pointed out by the Applicant, Lohtia teaches using a location service. The claim language indicates "a location based service" and carefully considering the reference as a whole, at least the passage "such as forecasts or observations for either a current location ***or*** a pre-selected location indicated in the user's service information

PROFILE. (Col. 5, lines 27-32), one of ordinary skill in the art would recognize that the "current location" must be determined by a "location based service" even if for the sake of argument the location based service is collecting location information from a/the profile. Based on the Examiner's interpretation of the passage the "pre-selected location" is in the profile and not necessarily the "current location" which is dynamic in the mobile community and perhaps fixed in the POTS community.

8. Applicant indicates that At best, Lohtia transmits a REQUESTED message-NOT a message relating to the OBTAINED location as required by all pending claims 1-4, 6-14 and 16-31.

9. However, the Examiner respectfully disagree. One of ordinary skill in the art would recognize at least a relationship(i.e., a message relating to…) between messages in the trans-communication.

10. Applicant argues that Whitington fails to disclose, teach or suggest an auxiliary digit SUFfixed to an end of a telephone number as recited by claims 1-4, 6, 7-14, and 16-31.

11. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Furthermore, Degrave teaches digits are suffixed by said subscriber to the end of said telephone before transmission of said telephone number, retrieving information related to based on requested information associated with said at least one auxiliary digit suffixed to said end of telephone number before

transmission of said telephone number(e.g., see at least paragraphs **0038-0040,0049,0062 and 0079).**

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,2,10,11,12,19,20,21,23,24, 26,27,29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lohtia (US 6,560,456)** in view of **Whitington U.S. Patent No.: 6,131,028** and further in view of **Degraeve US Patent Pub. No. 20010049274**

Regarding claims, 1,11,20,23,26,and 29, Lohtia et al. teaches a method and system of providing location-based reference information in a wireless network comprising: receiving an information telephone call from a subscriber at a mobile switching center, **(Col. 5 line 66-Col.6 line 5),** querying a location based service to obtain a location of said subscriber in response to said telephone call **(Col. 2 line 40, Col. 4 Line 32, and Col. 5 line 30)**; retrieving a message relating to said obtained location based on requested information, and transmitting said retrieved message in a short message to said subscriber **(Col. 3 Lines 35-42, Col. 4 Lines 48-50, Col. 5 lines 56-59, and Col. 5 Line 66-Col.6 line 5)**.

However, Lohtia et al. does not specify that the location-based service to obtain a location of the subscriber is a wireless service and a telephone number initiating said telephone call including at least one auxiliary digit (feature code) beyond those associated with the information telephone call; retrieving a message relating to said location based on requested information associated with said at least one auxiliary digit. **For example, Lohtia teaches location information based on current location of subscriber as cited above, but does not spell out if the system finds the user or if the user enters his location in his profile**.

In the same field of endeavor, Whitington teaches a location-based service to obtain a location of the subscriber is a wireless service (**abstract, columns 2-5**) and a telephone number initiating said telephone call including at least one auxiliary digit (feature code) beyond those associated with the information telephone call (**column 3 lines 22-35 and column 4 lines 53-**

65); retrieving a message relating to said location based on requested information associated with said at least one auxiliary digit (i.e., a feature code can be used to obtain directions to the nearest gas station)(**column 3 lines 22-35 and column 4 lines 53-65**).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. to include a feature code appended to a telephone number as taught by Whitington for the purpose of providing a location based services. Whitington teaches that the digits are added to the telephone and in the specification examples are shown where the digits are added as prefix digits.

Nevertheless, Whitington does not explicitly teach that the digits are suffixed by said subscriber to the end of said telephone before transmission of said telephone number. In the same token one of ordinary skill in the art would note that Whitington does not explicitly teach that the digits **cannot** be suffixed by said subscriber to the end of said telephone.

However, Degrave teaches digits are suffixed by said subscriber to the end of said telephone before transmission of said telephone number, retrieving information related to based on requested information associated with said at least one auxiliary digit suffixed to said end of telephone number before transmission of said telephone number(**e.g., see at least paragraphs 0038-0040,0049,0062 and 0079**).

Therefore it would have been obvious to person of ordinary skill in the art at the time the invention was made to modify Lohtia as modified by Whitington to include wherein the digit is suffixed to the telephone number by said subscriber before transmission of said telephone number for the purpose of at least transferring data from a database using any kind of mobile phone as taught by Degrave in paragraph 0010.

Regarding claims 2, 12, 21, 24, 27 and **30** and as **applied to claims 1,11,20,23,26, and 29**, Lohtia et al. clearly teach the claimed invention except the method and system wherein at least two auxiliary digits are included with said information telephone call.

In the same field of endeavor, Whitington clearly show and disclose the method and system wherein at least two auxiliary digits are included with said information telephone call (**column 3 lines 22-35 and column 4 lines 53-65**).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. to include at least two auxiliary digits with said information telephone call as taught by Whitington for the purpose of providing a location based services.

Nevertheless, Whitington does not explicitly teach that the digits are suffixed by said subscriber to the end of said telephone before transmission of said telephone number. In the same token one of ordinary skill in the art would note that Whitington does not explicitly teach that the digits **cannot** be suffixed by said subscriber to the end of said telephone.

However, Degrave teaches digits are suffixed by said subscriber to the end of said telephone before transmission of said telephone number, retrieving information related to based on requested information associated with said at least one auxiliary digit suffixed to said end of telephone number before transmission of said telephone number(**e.g., see at least paragraphs 0038-0040,0049,0062 and 0079**).

Therefore it would have been obvious to person of ordinary skill in the art at the time the invention was made to modify Lohtia as modified by Whitington to include wherein the digit is suffixed to the telephone number by said subscriber before transmission of said telephone

number for the purpose of at least transferring data from a database using any kind of mobile phone as taught by Degraeve in paragraph 0010.

Regarding claims 10 and 19 and as **applied to claims 1 and 11**, Lohtia et al. clearly disclose the claimed invention except a method of providing location-based reference information in a wireless network according to claim 11, wherein: said location of said subscriber is determined using a known location of a cell/sector servicing said subscriber.

In the same field of endeavor, Whitington as modified by Degraeve clearly show and disclose except a method of providing location-based reference information in a wireless network according to claim 11, wherein: said location of said subscriber is determined using a known location of a cell/sector servicing said subscriber (**column 4 line 60-65**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. to include said location of said subscriber is determined using a known location of a cell/sector servicing said subscriber as taught by Whitington as modified by Degraeve for the purpose of establishing a point of reference in terms of location services.

Claims 3,4,7, 8,9,13,14,17,18,22,25,28,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lohtia et al. (US 6,560,456)** in view of **Whitington U.S. Patent No.: 6,131,028** in view of **Degraeve US Patent Pub. No. 20010049274 and further in view** of **Bar et al. (US 6,456,852).**

Regarding **Claims 3, 13 ,22, 25, 28 and 31 and as applied to claims 1, 11, 20, 23, 26 and 29,** Lohtia et al. as modified by Whitington clearly teach claimed invention. Lohtia further

teaches that an information number can be any number which would obviously include the dialed digits "4-1 –1" (**Col. 5 lines 42-44**).

Although, the dialed digits "4-1-1" is a well known telephone number for information calls, Lohtia et al. as modified by Whitington as modified by Degraeve does not specifically state that an information number uses the dialed digits "4-1-1".

In the same field of endeavor, Bar et al. teaches the information number being the dialed digits "4-1-1" (**Col. 3 Line 15**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. as modified by Whitington as modified by Degraeve to include the dialed digits "4-1-1" as the information number utilized for location finding services as taught by Bar et al. By using the dialed digits "4-1-1" it is obvious that dialing for information could be further automated.

Regarding claims 4, 8, 9,14,17 and 18 and as applied to claims 1 and 11, Lohtia et al. as modified by Whitington as modified by Degraeve clearly disclose the claimed invention except teaching that the subscriber can be located using wireless or cellular signaling, time difference of arrival, and time of arrival.

However, in the same field of endeavor, Bar et al. teaches that the subscriber can be located using wireless or cellular signaling (**Col. 5 lines 37–49**), time difference of arrival (**Col. 3 line 47**), and time of arrival (**Col. 3 line 46**).

Therefore it would have been obvious to a person at the time the invention was made to modify Lohtia et al. as modified by Whitington as modified by Degraeve to include

or cellular signaling, time difference of arrival, and time of arrival as taught by Bar et al. for the purpose of location services.

Regarding claim 7 and as applied to claim 1 above, Lohtia et al. as modified by Whitington as modified by Degraeve clearly disclose the claimed invention except teaching that the location is determined by using a network generated Location based on a centroid of a cell site sector's radio frequency polygon.

However, in the same field of endeavor, Bar et al. teaches that location determined by using a network generated Location based on a centroid of a cell site sector's radio frequency polygon (**Col. 3 Lines 25-35**).

Therefore it would have been obvious to a person at the time the invention was made to modify Lohtia et al. as modified by Whitington as modified by Degraeve to include a location determined by using a network generated Location based on a centroid of a cell site sector's radio frequency polygon as taught by Bar et al. for the purpose of location services.

Claims **6 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohtia et al. (US 6,560,456) in view of Whitington U.S. Patent No.: 6,131,028 in view of **Degraeve US Patent Pub. No. 2001004927** and further in view of Hines (US2004/0203922).

Regarding **claims 6 and 16 and as applied to claims 1 and 11** above, the Lohtia and Whitington as modified by Degraeve combination teaches all the particulars of the claims except locating the subscriber using angle of arrival.

However, Hines teaches locating a wireless device using angle of arrival (**Page 2 (0033)).** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Hines into that of the combination for the obvious reason of having another way to locate the subscriber.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES SHEDRICK whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles Shedrick/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617